

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-03 H-01 INR-07 L-02

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USMISSION USBERLIN

AMCONSUL BREMEN

AMCONSUL DUSSELDORF

AMCONSUL FRANKFURT

AMCONSUL HAMBURG

AMCONSUL MUNICH

AMCONSUL STUTTGART

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E.O. 11652: N/A

TAGS: PINT, GW

SUBJECT: POLITICAL CONTROVERSY SPARKED BY COURT

DECISION ON ABORTION LAW

1. THE FEDERAL CONSTITUTIONAL COURT IN KARLSRUHE ON
FEBRUARY 25 DELIVERED ITS VERDICT ON THE 1974 AMEND-
MENT TO THE GERMAN CRIMINAL CODE CONCERNING ABORTION
(PARAGRAPH 218). THE COURT RULED THAT THE SOCIAL-
LIBERAL COALITION-SPONSORED REFORM LAW WAS IN VIOLATION
OF THE FEDERAL CONSTITUTIONAL GUARANTEE OF THE RIGHT
TO HUMAN LIFE (DEEMED TO BEGIN AS OF THE 14TH DAY
AFTER CONCEPTION). IN THE DECISION THE COURT OUTLINED
THE CONDITIONS UNDER WHICH ABORTION COULD BE LEGAL.
THEY INCLUDE PREGNANCIES CONSTITUTING DANGER TO THE
LIFE OR A SERIOUS THREAT TO THE HEALTH OF THE MOTHER,
PREGNANCIES RESULTING FROM CRIMES INCLUDING RAPE
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(ETHICAL CONSIDERATIONS), GENETIC OR OTHER DEFECTS OF

THE UNBORN CHILD (EUGENIC CONSIDERATIONS), AND UNDUE HARDSHIP (INCLUDING SOCIAL HARDSHIP) THAT WOULD RESULT FOR THE MOTHER FROM CONTINUED PREGNANCY AND BIRTH. WHILE THESE CONSIDERATIONS ARE LESS LIBERAL THAN THE PROVISIONS OF THE REFORM LAW WHICH PROVIDED FOR ABORTION UPON DEMAND IN THE FIRST THREE MONTHS OF PREGNANCY, THEY ARE MORE LIBERAL THAN THE ORIGINAL PARAGRAPH 218 AND PROVIDE GUIDELINES FOR THE BUNDESTAG IN DRAWING UP A NEW ABORTION REFORM LAW.

2. THE NEWS THAT THE COURT WAS ABOUT TO STRIKE DOWN THE ABORTION REFORM LAW HAD LEAKED OUT SOME WEEKS AGO AND MODERATED THE EFFECT OF THE DECISION. WHILE SPD AND FDP SPOKESMEN HAVE BEEN VERY CRITICAL OF THE DECISION, THEY HAVE STRESSED THE NEED WITHIN A DEMOCRACY TO RESPECT THE DECISIONS OF THE COURT.

3. FOLLOWING THE ANNOUNCEMENT BY THE COURT THERE WERE PEACEFUL DEMONSTRATIONS IN KARLSRUHE, MUNICH, HAMBURG, FRANKFURT, AND BONN PROTESTING THE DECISION BUT IT DOES NOT APPEAR THAT THE ISSUE WILL CREATE GENERAL UNREST. THE SPD HAS STATED THAT THEY WILL WORK WITH THE FDP ON A NEW DRAFT BILL WHICH WILL TAKE INTO ACCOUNT THE KARLSRUHE DECISION. THE CDU HAS SUGGESTED THAT THE OPPOSITION AND THE GOVERNMENT WORK TOGETHER ON A NEW BILL BUT THAT DOES NOT APPEAR VERY LIKELY.

4. THE FACT THAT THE COURT SUGGESTED THAT CERTAIN "SOCIAL" CONSIDERATIONS COULD BE TAKEN INTO ACCOUNT TO JUSTIFY AN ABORTION WOULD SEEM TO GIVE THE SOCIAL-LIBERAL COALITION SOME ROOM, WHILE NOT GOING AS FAR AS THEY MIGHT LIKE, TO PASS A CONSTITUTIONALLY ACCEPTABLE REFORM BILL BEFORE THE 1976 BUNDESTAG ELECTIONS.

5. THE LONG-ANTICIPATED COMPLICATION FOR BERLIN CREATED BY THE CONSTITUTIONAL COURT DECISION, BEARING ON THE SPECIAL STATUS OF THE CITY, HAS BEEN THE SUBJECT OF SEPARATE MESSAGES.

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